

THIRTEENTH DECLARATION OF TAMMY M. MECKLEY  
No. 3:19-cv-03512-WHO

4. This declaration is submitted in support of Defendants' Tenth Compliance Report, per this Court's December 17, 2020 Order and Judgment, ECF Nos. 89 & 90, and its April 11, 2023 Minute Order, ECF No. 154. The purpose of this declaration is to provide the Court with an update regarding USCIS's substantial compliance with the Court's Order and Judgment. ECF Nos. 89 & 90.

### **Status of Pending A-File Requests and Backlog**

5. USCIS received an unprecedented number of A-file FOIA requests this reporting period—more than 100,000 requests—far surpassing the 80,000 or more-threshold received in each of the last four compliance periods.<sup>1</sup> While continuing to tackle this ever-increasing number of A-File FOIA requests, USCIS has continued over this reporting period to maintain its low A-file backlog and high timely completion rate. During the latest compliance period, from March 14, 2023, through end of the day yesterday, June 14, 2023, USCIS received approximately 104,542 new FOIA requests for A-Files and completed processing 94,492 A-File requests.

6. During that same period, USCIS has kept its backlog low, at approximately 6 requests as of the end of day yesterday, June 14, 2023. Moreover, USCIS has continued to respond, on average, to A-File FOIA requests well within the statutory period, and the number of cases in USCIS's backlog from requesters in Track 3—*i.e.* those who show they have a scheduled immigration proceeding—continues to remain at zero.

7. Due to USCIS's long-term efforts, including its substantial investments in resources and personnel (discussed below), the agency has continued to keep pace with incoming requests. Specifically, during this reporting period, USCIS completed processing 76,185 of those new A-File

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<sup>1</sup> USCIS received approximately 80,461 in the sixth reporting period; 84,484 in the seventh reporting period; 84,423 in the eighth reporting period and 85,909 in the ninth reporting period. *See* Joint Status Report 6 n.3, ECF No. 133; Ninth, Eleventh and Twelfth Declarations of Tammy M. Meckley, ECF No. 138-1 ("9<sup>th</sup> Meckley Decl.") at ¶ 5; ECF No. 147-1 ("11<sup>th</sup> Meckley Decl.") at ¶ 6; and ECF No. 151-1 ("12<sup>th</sup> Meckley Decl.") at ¶ 7.

requests, 76,066 of which were timely completed. This reflects a timely completion rate of approximately 99.84 percent for the current reporting period.

8. The average processing time for requests in each of USCIS's tracks likewise demonstrates USCIS's continued success in providing timely responses to requests for A-Files, including ensuring requestors with the greatest need—those with a scheduled immigration hearing—are provided responses well within the statutory deadlines.<sup>2</sup> Specifically, during the current reporting period:

- a. the average processing time for Track 1 cases has been approximately 14.99 business days.
- b. the average processing time for Track 2 cases has been approximately 18.65 business days.
- c. the average processing time for Track 3 cases has been approximately 8.40 business days.

9. There are approximately 28,351 FOIA requests for A-Files that remain pending within the statutory period (approximately 99.98 % of pending requests) as of the end of the day on June 14, 2023.

10. There are approximately 6 FOIA requests for A-Files that remain pending beyond the statutory period (approximately .02 % of pending requests) during that same time frame. These requests comprise USCIS's current A-File backlog.

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<sup>2</sup> As previously noted, Track 1 consists of requests seeking very specific or very limited records; Track 2 consists of complex requests, or those that are seeking more than a few pages of documents; and Track 3 consists of requests from individuals who can demonstrate that they have an upcoming scheduled immigration hearing. *See* Declaration of Tammy M. Meckley ¶ 21, ECF No. 75-2 ("1st Meckley Decl.").

### Continued Actions Taken to Address A-File FOIA Requests

11. USCIS has made significant, long-term investments in its FOIA program. Below is an update on USCIS's efforts:

12. Since January 2022, USCIS has authorized the hiring of 83 additional positions to support the FOIA program, 34 of which were funded through a \$15 million enhancement approved by the USCIS Director for Fiscal Year 2023.<sup>3</sup> See 12th Meckley Decl. ¶¶ 12-13. Of those positions, 68 have completed the hiring process and have since entered on duty. In addition to these hiring efforts, the agency also continues on-going hiring efforts associated with standard attrition due to retirements, promotions or other job changes.

13. With the onboarding of new staff, the agency is continuing to invest time and resources towards training, which may take from four-to-six months, depending on (among other factors), whether retraining is required. Over the last compliance period, 10 staff completed the training process and are actively contributing towards the timely processing of FOIA requests.

14. In addition to its hiring and training initiatives, USCIS has continued to use overtime to maximize the efforts of its staff. Since February 26, 2023, up through June 3, 2023, employees have worked approximately 16,428 hours of overtime.<sup>4</sup> USCIS also continues to contract for additional FOIA backlog work and has recently entered another contract for FOIA work to be completed through March 29, 2024.

15. As the USCIS FOIA Office has been maintaining a low backlog and high compliance rate, it is now no longer using details to assist in the timely processing of incoming A-file FOIA

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<sup>3</sup> Another 25 of those 83 positions were created pursuant to the ICE Memorandum of Agreement, which were converted from term to permanent positions, and 24 positions were unrelated to that agreement. 12th Meckley Decl. ¶ 12.

<sup>4</sup> This information is made available to the FOIA program per pay period. Accordingly, this number reflects the hours attributable to overtime during each pay period following the last reported pay period in the previous compliance report and up through the most recently available pay period.

1 requests, which allows other USCIS offices to concentrate their resources towards fulfilling their  
2 respective mission requirements.

3 16. In sum, USCIS has undertaken substantial efforts to sustain and improve its overall  
4 FOIA program, to include significant investments in resources and technology. Due to these efforts  
5 and investments, USCIS anticipates that it will be well-positioned to continue reporting low backlog  
6 numbers and high compliance rates in the future.

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8 I declare under penalty of perjury that the foregoing is true and correct.

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10 Dated: June 15, 2023

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12 TAMMY M. MECKLEY  
13 Associate Director  
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15 U.S. Citizenship and Immigration Services (USCIS)